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SPECIAL COMMITTEE ON THE SITUATION WITH REGARD TO THE IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

SUMMARY RECORD OF THE 1457th MEETING

Held at Headquarters, New York,
on Monday, 22 July 1996, at 3 p.m.

Chairman: Mr. RODRÍGUEZ PARRILLA (Cuba)
(Vice-Chairman)

later: Mr. SAMANA (Papua New Guinea)
(Acting Chairman)

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The meeting was called to order at 3.35 p.m.

QUESTION OF THE FALKLAND ISLANDS (MALVINAS) (A/AC.109/2041; A/AC.109/L.1844)

1. The CHAIRMAN said that Argentina and Brazil had asked to participate in the consideration of the item and, if there were no objections, he would take it that the Committee agreed to the request.

2. It was so decided.

Hearing of petitioners (Aide-mémoire 9/96)

3. At the invitation of the Chairman, Mr. Goss took a place at the petitioners' table.

4. Mr. GOSS, a member of the Legislative Council of the Falkland Islands (Malvinas), said that the Goss family name in the Falkland Islands went back four generations. He therefore felt committed to speak in defence of the rights of a people whose roots reached back over 163 years to a then empty land. The Committee should support the aspirations of the Falkland Islanders to exercise the right to self-determination and include a paragraph to that effect in the preamble to the draft resolution under consideration. Those who opposed it resorted to the tactic of masquerading subjects who claimed remote historical connections to the Falkland Islands.

5. The Committee had heard many times the fairy tales of the dreamland Utopia which the Argentines called the Malvinas. The emerging democratic Argentina should be mature enough to relinquish its purely nationalistic delusion which did nothing for its credibility.

6. If the Committee insisted that the current status of the Falkland Islanders needed to be resolved, then the solution could be found in recognizing the Falkland Islands as a dependent Territory of the United Kingdom. The Islands, which could not be considered as entirely a Non-Self-Governing Territory, were virtually self-sufficient and had a fairly good per capita income from its fishing industry. He hoped that the Committee would recognize that the people of the Falkland Islands had the right to the way of life and Government of their own choice and that in no case did they wish to be separated from the United Kingdom.

7. He recalled that the Chairman of the Committee had made a commitment the previous year to introduce an amendment to the draft resolution under consideration in recognition of the wish of the Islanders to have the Government of their own choice and to decide on their political future. He had been disappointed to learn that the Chairman had backed off from that promise and that, on the contrary, Papua New Guinea was among the sponsors of a draft resolution put forward by a number of delegations on behalf of the Argentine Government.

8. On the other hand, he was obliged to give credit to Argentina for its cooperation in the control and conservation of the fish stocks which that

country shared with the Falkland Islands. That cooperation had led to the establishment of a Fisheries Commission. Some delay was apparent, however, in the establishment of a long-term fishing agreement. A Hydrocarbon Commission had also been established, although much remained to be done before serious exploration could begin. He hoped that Argentina would wake up to the financial gain that would follow when it resigned its claim to sovereignty over the Falkland Islands.

9. At a seminar held in Port Moresby, Papua New Guinea, the representative of Argentina had stated that her country stood ready to resume negotiations with the United Kingdom to reach a peaceful and lasting solution to the dispute over sovereignty. There were three parties in that equation: the first two, which were united in their positions and had no dispute between them, were the people of the Falkland Islands and the United Kingdom, the latter as the administering Power; the third party, Argentina, had a dispute with the other two based on flimsy, emotional indoctrination. The Committee must understand the difference between the ambitions of Argentina and the wishes of the Falkland Islanders and their allegiance to the United Kingdom. It should set aside futile arguments about who owned the Islands and focus attention instead on the people who inhabited them, how long they had been there and whether or not they had displaced an indigenous population. The people of the Falkland Islands also had rights under the United Nations Charter and the Committee should recognize their right to self-determination.

10. Mr. Goss withdrew.

11. At the invitation of the Chairman, Mr. Stevens took a place at the petitioners' table.

12. Mr. STEVENS, a member of the Legislative Council of the Falkland Islands, said that many families in the Falkland Islands could trace their names back to the 1830s. The same was true of many Argentine family names, including those of some members of the party currently in power, like Menem, Di Tella and Petrella. In fact, well over six and a half million Europeans had settled in Argentina between 1840 and 1950. During those years the Falkland Islands were being peopled by British immigrants while Argentina, like many other Latin American countries, was becoming a melting pot for European immigrants, especially Italians, Spaniards, Germans, Slav and British. There the similarities ended because, as the Falkland Islands grew from strength to strength in a law-abiding climate, Argentina suffered from dictatorships, civil wars and frequent revolutions.

13. At the time of their discovery, there had been no sign of any indigenous populations on the Falkland Islands. The fact that the Europeans had fought over the right to colonize the Islands had little relevance at the current time, since such fighting had been commonplace over more than half the globe during that period. Since the British had gotten the upper hand in the Falkland Islands more than 160 years previously, peace and calm had prevailed, except for a few months during 1982.

14. In Argentina there had been an indigenous population. It was well documented that the European settlers had annihilated the native Indians of

Argentina. In the same decade that the population of the Falkland Islands was starting to import sheep, Juan Manuel de Rosas had been busy subduing the indigenous people of Argentina. While sheep farmers in the Falkland Islands were selling over 2 million pounds of wool in the late 1870s and early 1880s, Argentina had been finally beating back the Indians out of the best lands of the pampas and the Rio Negro.

15. Argentina's claim went back to a time when the world was undergoing great changes. All civilized countries should ask themselves whether there was room for expansionist aspirations in the contemporary world. In another time, it was acceptable for the strong to conquer the weak. However, in the civilized parts of the world today, even the smallest minorities had the right to be heard. The people of the Falkland Islands had no wish to be colonized by another country. Furthermore, many countries annexed or otherwise obtained territory after the future of the Falkland Islands had been decided: the United States of America annexed Texas in 1845 and bought Alaska from Russia in 1867.

16. The Falkland Islands had a future. It had a developing fishing industry which generated a reasonable income. Over the years, the financial resources of the Islands had enabled its inhabitants to develop and to enjoy their own way of life, while at the same time becoming more and more politically autonomous. Much had been said recently about the Islands' new desire to have their right to self-determination acknowledged. That was not new, since the Islands had been asking for that recognition since the end of the war. There were some in Argentina who believed that the Islanders could be won over by seduction. Argentina was a big and attractive country, but that did not mean that the Islanders wished to be a part of it.

17. Argentina and the Falkland Islands shared the same region of the world, exploited its fisheries resources in separate economic zones and monitored those resources for the common good. The differences between the two countries should not interfere with the survivability of marine species or damage the underwater environment. The environment of Argentina and of the Falkland Islands would come under great risk as the oil industry began its exploration phase and under even greater risk if exploitation began.

18. History had shaped the destiny of the Islands over 160 years earlier. Argentina and the Falkland Islands were different in character and culture. The people of the Falkland Islands had no wish to be part of Argentina whose claim was linked to a time when boundaries were constantly changing hands. Many of the claims that had been forgotten over time had more substance than the tenuous and fragile link in which Argentina placed so much faith. For their part, the people of the Islands wished to continue to mature as a nation. It was useful to recall the example of Canada, where the islands of St. Pierre and Miquelon, which were administered by France, were but a stone's throw from Newfoundland. The Islanders wished to exercise the basic right of self-determination, a right which the Committee recognized in all other resolutions relating to territories under its purview. Some members of the Committee had suggested that if the Falkland Islands did not have that right, as Argentina argued, then the Committee should not be discussing the issue at all. The people of the Falkland Islands had no wish to be a colony of Argentina.

19. The Falkland Islands trusted that the time would come when they would maintain excellent neighbourly relations with Argentina. However, that could not be achieved through a transfer of sovereignty. The Falkland Islands could not be returned to a native population, because none had ever existed. Their development over the past 160 years mattered much more than any of the previous settlements by other nations, which had lasted for only brief periods of time.

20. Mr. Stevens withdrew.

21. Mr. Samana (Papua New Guinea) took the Chair.

22. Mr. YARKA (Papua New Guinea) said that Papua New Guinea had not changed its position regarding the question of the Falkland Islands (Malvinas). Its decision to sponsor the important consensus draft resolution on the question was based on the fact that the sovereignty claim by Argentina and the United Kingdom had given rise to an ongoing dispute, recognized as such by the international community and highlighted in numerous General Assembly resolutions.

23. Papua New Guinea fully supported the efforts undertaken by Argentina and the United Kingdom to resolve the issue through consultation and dialogue. It therefore urged the parties to seek the good offices of the Secretary-General with a view to the immediate resumption of negotiations that would pave the way for a peaceful solution to the sovereignty dispute.

24. At the invitation of the Chairman, Mr. Vernet took a place at the petitioners' table.

25. Mr. VERNET, the great-great-grandson of the first Argentine Governor of the Malvinas Islands and an Argentine citizen, asked the Committee to promote a solution to the irregular situation in the Malvinas Islands, which was contrary to the rights of Argentina, and to ensure that the Islands were restored to Argentine national territory.

26. He considered himself a living testimony of the Argentine citizens who had peacefully settled and flourished in the Islands, and were then expelled by force from their homes. In 1823, Don Luis Vernet had obtained a permit from the Government of Buenos Aires to exploit the herds existing on the Malvinas Islands and had peacefully moved there with his whole family, dedicating himself to their exploitation, their progress and the settlement of a population of approximately 200 people at a time when the Islands were of little value to the world in general. As a result of his proposal, the Government of Buenos Aires, as the rightful owner of sovereignty over the Islands, had authorized Don Vernet to establish a colony at the Government's expense and had granted him, through a decree of 5 January 1828, all of the land with the exception of 10 square leagues which would be reserved for the use of the national Government. The land grant was recorded in a document presented at the time to the British Chargé d'affaires and subsequently legalized by the British Vice-Consul. Those measures had been taken within the framework of the Treaty on Friendship, Navigation and Trade signed in 1825 by the United Provinces of Río de la Plata

and the United Kingdom. The Treaty which was of vital importance, for it recognized Argentina as the sovereign country and made no mention of either the Malvinas Islands or any reservation concerning British rights over the Islands, which at the time were under the administration of the United Provinces of Río de la Plata which had taken formal possession of them in 1820 under an act that had been disseminated throughout the world. In 1829, however, following the publication of a decree naming Don Luis Vernet as Governor of the Malvinas and the South Atlantic Islands, Great Britain had unexpectedly lodged a protest claiming that the decree was incompatible with British rights over the Islands.

27. In 1831, a stable population lived in the Malvinas Islands, as confirmed by a report submitted by Captain Robert Fitz Roy to the British Government on the Malvinas Islands, which gave an account of the voyage of the "Beagle" to the Islands, his stay there and his contact with the Governor and his family.

28. Clearly, thanks to the sacrifices of the settlers in an extremely inhospitable region, the Malvinas in those days had been a prosperous colony where ships from all nations put into port for supplies. That situation had aroused the greed of the United Kingdom, the greatest naval power of those times. Thus, in January 1833, the warship "Clio", under Captain J.J. Oslow, had landed in Soledad Port, raised the English flag, lowered the Argentine flag, and urged the Islands' inhabitants to leave. Argentina's ongoing claims dated back to that time. After four years in which the land belonging to Don Luis Vernet had been respected as private property, the English occupants had demanded that he should withdraw all of his possessions, failing which, the English Government would not be responsible for them. Subsequently, the British Government had sold the land to the so-called Falkland Islands Company.

29. The Committee had already heard those who represented the Malvinas seeking recognition by the international community. They considered themselves British and they wished to remain British. They were requesting their self-determination in the territory without any legal grounds whatsoever to do so. The opposite extreme was Argentina, which should have had the support of the international community. It had been a sovereign State since 1816 and in 1833 had suffered acts of colonization at the hands of Great Britain. Its citizens had been expelled by force and since that time, had had difficulty entering the Islands. There were no Argentine citizens on the Islands because they had never been allowed to reside there, but there were British citizens on the Argentine mainland who had been able to prosper, thanks to the existing laws and liberties and had grown to form a large community. The inhabitants of the Malvinas Islands did not realize that the principle of self-determination could not be invoked with respect to the Islands as their inhabitants were British citizens or descendants of illegal immigrants. Therefore, there was no population under colonial rule but rather a settlement of British citizens. The Islands were under colonial rule, not their inhabitants.

30. Argentine-British relations were currently extremely cordial. Within that framework, the problem of sovereignty over the Malvinas Islands must be faced, taking into account the interests of the islanders. He therefore lamented the intransigent attitude of the Legislative Council of the Islands, which had suggested that the entry of Argentine citizens should be prohibited in the

belief that, in that way, the Argentines would relegate to oblivion a territory which historically belonged to them.

31. The question could be resolved within a framework of mutual respect of the parties' rights. The historic moment had arrived in which the two Governments could put an end to the dispute over sovereignty over the Malvinas Islands. He therefore requested the Committee to urge the United Kingdom to assume, in a peaceful and fair manner, its responsibility for resolving, together with the Argentine Republic, the sovereignty dispute over the Malvinas Islands, South Georgia and the South Sandwich Islands.

32. Mr. Vernet withdrew.

33. At the invitation of the Chairman, Mr. Ancell took a place at the petitioners' table.

34. Mr. ANCELL, the representative of the Province of Santa Cruz (Argentina) in the National Congress of Argentina and a descendant of the native people of the Malvinas, said that territorial conquests by force had lost their currency and that the Committee had performed an outstanding task in liberating territories and returning them to their rightful owners.

35. The case of the Malvinas Islands was an example of Great Britain's nineteenth-century policy aimed at extending its Empire to all continents, in particular to those territories from which it could exercise control over major routes. The forcible occupation of the Malvinas Islands, part of a general plan to occupy the South Atlantic, assured Great Britain of fishing resources in that zone and the best naval station on the route to Australia and Tasmania.

36. The current occupier could invoke no claim other than power, force and usurpation and many eminent British personalities, such as the Duke of Wellington in 1829 and Sir William Molesworth in the House of Commons in 1848, had expressed doubts concerning the rights of the United Kingdom over the Malvinas Islands. Similar doubts were expressed in studies and memoranda by the Foreign Office itself.

37. The Government of the Argentine Republic, for its part, whatever political regime was in power, had protested for many years against the pilfering of the Territory of the Malvinas Islands, invoking the basic principles of discovery, occupation and adjacency. Argentina, in ratifying before the Committee an immutable and historic claim, could refer to massive documentation which included the sham British commitment of 1790 (article 6 of the Treaty of Nootka, signed at El Escorial) to respect Spanish possessions and not to settle along the South American coasts. More recently, the Inter-American Juridical Committee of the Organization of American States (OAS) had recognized in 1976 that Argentina had an irrefutable sovereign right to the Malvinas Islands in a statement endorsed by the OAS Assembly in which it reaffirmed that the authentic ideals of its member Republics required that all occupation, usurpation, enclaves and any remaining form of colonial rule in America should be put to an end.

38. Such recognition of the Argentine claims by a vast number of States in the international community precluded international recognition of the occupation by the United Kingdom. He also wished to point out that the States allied with the United Kingdom had been extremely careful to confine themselves to acknowledging the existence of the dispute without in any way acknowledging a claim of sovereignty.

39. The Committee, for its part, had recognized in its resolutions on the question the existence of a sovereignty dispute and had stated that a peaceful solution was the way to decolonize the Territory. The Committee had repeatedly requested the Government of Argentina and the Government of the United Kingdom to resume their negotiations on sovereignty over the Islands. The Government of the United Kingdom, however, had indicated that it was not prepared to discuss the topic of sovereignty over the Malvinas Islands, disregarding the United Nations recommendations and resolutions and the views of the overwhelming majority in the international community.

40. The rejection of the British proposal to grant the islanders the right to self-determination, expressed by a large number of States at the meeting of the United Nations General Assembly held on 27 November 1985, had highlighted in no uncertain terms the inapplicability of the principle of self-determination in the Malvinas Islands and the primacy of respect for Argentine territorial integrity. It had also reaffirmed Argentina's position that, in resolving the dispute, the interests and not the desires of the islanders must be considered.

41. Argentine sovereignty over the Malvinas Islands could not be ignored by invoking the right to the self-determination of peoples. It was as illusory to think that a people could enjoy the right to self-determination when it did not possess a territory in which to exercise that right as it was to maintain that a population imported as a result of colonial occupation and which had no distinguishing traits could have any right over a territory which had been wrested by force.

42. The Committee, in adopting the draft resolution on the question, would be contributing to a peaceful and negotiated solution. It was his hope that the United Kingdom would reconsider its closed position for the sake of both countries and the international community as a whole.

43. Mr. Ancell withdrew.

44. At the invitation of the Chairman, Mr. Betts took a place at the petitioners' table.

45. Mr. BETTS wished to stress to young islanders the need to initiate a free-flowing and fruitful dialogue between Argentina and the United Kingdom in order to find a lasting solution, in accordance with the democratic constitutions of both countries, to the question of the sovereignty dispute between them.

46. Argentina had claimed the Malvinas Islands since 1833. Its Constitution established that that claim must be asserted peacefully, taking into account the lifestyle of their inhabitants, in terms of both their relations with the United Kingdom and the rest of the world. In his view, the islanders must be heeded

and they must also know the undistorted truth about the historic and legal claims of both parties. Argentina, for its part, must renew its friendship with the islanders, whose reservations were not an insurmountable obstacle, as a first step towards the initiation of a constructive dialogue. Nothing justified the lack of political will on the part of a democratic government to resolve a dispute that created a feeling of legal insecurity and political tension in the area, to the detriment of the progress and full development of the region.

47. Concerning the statement by the United Kingdom and the representatives of the islanders that the most basic concern was the exercise of the inhabitants' self-determination, he referred to two previous United Nations documents. According to document A/5725/Add.4, at the nineteenth session of the General Assembly, the Government of the United Kingdom had objected to considering the exercise of the right to self-determination in 1964 when it was still in control of some parts of its once great colonial empire, but it now invoked that same right in the case of its own colony in the Malvinas Islands. At that time, the United Kingdom had recognized that, in exceptional cases, the principle of self-determination could be considered in the light of other principles such as that of the territorial integrity of States, an argument that was applicable to the Malvinas. Second, on 27 November 1985, the General Assembly had clearly rejected the British proposal to grant the right to self-determination to the islanders, in the belief that it was not relevant to the case of the Malvinas and out of respect for Argentine territorial integrity.

48. He described a painful personal experience and said that the decision of the Government of the United Kingdom to deny Argentine citizens entry to the Malvinas Islands was an arbitrary and discriminatory measure which did not help to promote peace and cooperation. It stood in contrast to the treatment which persons from the Islands enjoyed on the Argentine mainland. Moreover, while the refusal to allow Argentine citizens to reside in the Malvinas Islands dated back more than a century, the current policy barring the immigration of Argentines reinforced the long-time and persistent policy of denying the entry of Argentine residents and capital, in contrast to the international trend towards regional integration and the free movement of persons, including in conflict areas. The seeming homogeneity of the Island community had been preserved at the expense of the exercise of fundamental individual rights.

49. Nonetheless, some positive aspects should be pointed out, such as cooperation in the conservation of fishing resources in the South Atlantic, which benefited the fishing industry, the mainstay of economic activity in the Malvinas which must continue to be preserved as a source of income. A basic understanding between Argentina and the United Kingdom on the prospecting and extraction of hydrocarbon reserves on the continental shelf would also be extremely beneficial.

50. In his view, the will of both parties had made possible a political climate conducive to calm reflection on the future of the sovereignty dispute and the possibility of arriving at a negotiated and peaceful agreement, duly taking into account the situation of the people on the Islands. That would lay the groundwork for economic cooperation in the South Atlantic.

51. Noting that the Argentine Republic had always provided the necessary guarantees and safeguards in order to resolve the sovereign dispute, he expressed his conviction that there were sufficient bases for the establishment of a harmonious, lasting and beneficial relationship among all interested parties, both on the human and economic levels. He therefore urged the Committee to use its good offices to seek a lasting solution to the question.

52. Mr. Betts withdrew.

53. Mr. PERFILIEV (Director of the Division of General Assembly Affairs) said that, in draft resolution A/AC.109/L.1844, "the" should be replaced by "this" before "question" in the last line of paragraph 3 in the English text. In the Spanish text, "la" should be replaced by "esta" before "cuestión". In the French version, "n'a pas" should be replaced by "n'ait pas" in the second line of the sixth preambular paragraph. In the third and fourth lines of paragraph 3, the phrase "de la question de l'avenir" following "tous les aspects" should be replaced by "relatif à l'avenir". The word "pacífica" should be inserted between the words "solución" and "justa" in the fourth line of the fifth preambular paragraph of the Spanish text.

54. Mr. SOMAVÍA (Chile), introducing draft resolution A/AC.109/L.1844, said that Latin America had always been committed to the cause of decolonization; in that context, a statement had been issued on 25 June 1996 by the Presidents of the States parties to MERCOSUR and associated countries. The resolution he was introducing would further contribute to the quest for a peaceful and negotiated solution to the dispute between two countries with which Chile maintained excellent relations of friendship. It was the only path to a resolution of the special colonial situation of the Malvinas Islands (Falkland). In that context, he expressed his hope that the provisions of General Assembly resolution 2065 (XX), would be speedily implemented, particularly as regarded the resumption of negotiations between Argentina and the United Kingdom. Chile greatly appreciated Argentina's willingness to reiterate its firm intention of fully respecting the lifestyle in the Islands and establishing direct links with their inhabitants. As the draft resolution introduced was not substantially different from the previous resolution, adopted on 13 July 1995, he urged the Committee to adopt it by consensus.

55. Mr. DI TELLA (Argentina) recalled the colonial origin of the question of the Malvinas Islands. Indeed, the English occupation in 1765 had been partial and precarious; the fact that they had left tangible signs of possession to indicate their intention of returning could not constitute a legal claim that was more compelling than the continuous, effective and peaceful exercise of State sovereignty over the entire archipelago for many years. In 1820, the islands were taken over in the name of the new republic which succeeded Spain, an act which the United Kingdom did not contest in recognizing Argentine independence in 1823 or in concluding a treaty on trade, friendship and navigation in 1825. In 1829, the Government of the United Provinces of Río de la Plata had established a Government on the Islands and in 1833 the English had expelled the authorities and inhabitants of the Islands and occupied them. Since that time, Argentina had never ceased to claim its right to the Islands.

56. Their history made the Malvinas Islands a special colonial case which could not be likened to the situation of other Non-Self-Governing Territories, a

situation which the Committee and the General Assembly had highlighted on numerous occasions. Thus, according to General Assembly resolution 2065 (XX) of 16 December 1965 and other resolutions, the question comprised three aspects: first, a sovereignty dispute over the Territory of the Islands; second, from the legal viewpoint, there were two parties to the dispute, Argentina and the United Kingdom; and, third, the solution to that dispute must emerge from negotiations between the two Governments, thereby ruling out the possibility of applying the right to self-determination. The General Assembly had made it clear that that right was inapplicable when it rejected an amendment proposed by the United Kingdom that included the principle of self-determination. That principle was valid only with regard to peoples who had been subjugated by a colonial power but not with regard to the descendants of settlers who had emigrated in the nineteenth century after forcibly expelling the local population. In that context, it must be taken into account that, since 1833, the Argentines had not been free to settle or own land on the Islands and that the British culture which had developed there was largely a consequence of the restrictions imposed on the movement of goods, capital and persons.

57. The spirit of General Assembly resolution 1514 (XV) of 14 December 1960, which endorsed the principle of self-determination, would be distorted if that right was granted to the subjects of the colonial Power themselves, who were British citizens with a right to reside in the United Kingdom, at the expense of the political community which had suffered colonization. It would be tantamount to making them the arbitrators of a territorial dispute in which their country was a party. The principle of self-determination must be interpreted in the light of the principle of territorial integrity recognized in resolution 1514 (XV) itself.

58. Dr. Rosalyn Higgins, the distinguished British jurist and member of the International Court of Justice, said in her work entitled "Problems and Process" that, from the perspective of the United Kingdom, the principle of self-determination played a vital role; it was a dependent territory whose people had been given the opportunity to decide on whether or not to maintain their status quo; from the British viewpoint, the desires of the Territory's inhabitants should be heeded but from the Argentine viewpoint, that was inappropriate. First of all, the people of the territory must be taken into account; as long as the party which had sovereignty could not be determined, it would not be possible to determine whether the inhabitants did or did not have the right to self-determination. Professor Antonio Cassese, in his work entitled "Self-determination of Peoples. A Legal Reappraisal", clearly stated that the inhabitants of the Malvinas Islands (Falkland) were essentially of colonial origin, in other words, they were British. The International Court of Justice, in its advisory opinion on the Western Sahara, affirmed that the validity of the principle of self-determination was not affected by the fact that, in certain cases, the General Assembly waived the requirement to consult the inhabitants of a given Territory, based on the consideration that a certain population did not constitute a people with a right to self-determination or on the conviction that consultation was totally unnecessary in view of the special circumstances. The distinguished Uruguayan jurist, Dr. Jimènez de Arèchaga, a former member and President of the Court, also expressly indicated in his work entitled "El derecho internacional contemporàneo" (International Contemporary Law), that the case of the Malvinas was an exception to the principle of self-determination in

that the General Assembly had requested the States concerned to negotiate the question of sovereignty and the transfer of the Territory and had refused to accept the results of a referendum or a consultation of the current inhabitants. Clearly, then, recognition of the principle of self-determination would imply the territorial division of the Argentine Republic.

59. Referring to more practical aspects of the situation in the South Atlantic, he said that the establishment of transportation links between the Islands and the mainland would contribute to a better understanding among the inhabitants of the region and to the development of their respective economies, as established in the documents signed by Argentina and the United Kingdom in 1990 in Madrid, within the framework of the restoration of diplomatic relations. For that reason, Argentina had advocated the establishment of transportation links between the mainland and the Islands and, for example, had authorized flights from Punta Arenas. The lack of transportation links between the Islands and the airports of Atlantic Patagonia, however, was regrettable as it created a feeling of isolation and discrimination which conspired against the economic and cultural development of the Southern region.

60. In the meantime, bilateral relations between Argentina and the United Kingdom had continued to improve from the political and economic standpoint. The two countries maintained similar positions concerning democracy, the international protection of human rights and cooperation in international relations. In the past year, a singular event had occurred which constituted an example of international cooperation between two countries divided by a sovereignty dispute: it was the joint declaration by Argentina and the United Kingdom on cooperation in the prospecting and extraction of hydrocarbons in the South Atlantic, signed on 27 September 1995. Under a formula which protected their respective positions on sovereignty, a framework was thus established for conducting coordinated activities in the vicinity of the Islands which were the subject of the dispute between the two countries. A climate of understanding and dialogue would be fostered, as progress was also achieved in other areas, such as fishing and transportation. Strides had also been made regarding Argentina's offer to assume responsibility for clearing mines that remained in the Islands from the 1982 conflict; in that undertaking, it would have the invaluable assistance of the Government of the United States of America. Moreover, the two Governments would continue to cooperate in order to make special arrangements regarding fishing, which would ensure the conservation of a living marine resources; in the South Atlantic Fisheries Commission, a dialogue had been initiated with a view to increasing cooperation. Unfortunately, the work of the Commission had been compromised by the unilateral measures taken by the United Kingdom, which sought to exercise jurisdiction over the waters of the maritime zones corresponding to South Georgia and the South Sandwich Islands in a manner which violated the provisions of the Convention on the Conservation of Antarctic Marine Living Resources. That had resulted in the exclusion of Argentine ships from the zone during the fishing season, causing huge economic losses and affecting the harmonious development of the region. Such measures compromised mutual cooperation in the South Atlantic and conspired against the framework of good will essential to achieving progress on an issue which concerned not only the respective Governments but also, in particular, the inhabitants of the Islands.

61. The attempts of the Government of Argentina to create favourable conditions for constructive dialogue had not yet received a sufficiently positive response from the United Kingdom. Argentina would spare no effort to achieve the resumption of negotiations on the central issue of the dispute, and regretted that the United Kingdom showed no willingness to do the same. The Organization of American States (OAS) had declared its support for the resumption of negotiations to seek a peaceful solution to the sovereignty dispute, and the Southern Common Market (MERCOSUR), together with Bolivia and Chile, had reaffirmed its support for the legitimate rights of the Argentine Republic in the sovereignty dispute on the question of the Malvinas Islands.

62. Addressing the inhabitants of the islands directly, he reaffirmed that disagreements over sovereignty should not stand in the way of dialogue, or obviate the usefulness of an open-ended debate which would enable further progress to be made or the abiding respect of the Argentines for the British cultural heritage and institutions, which had played such a great part in the development of democracy in the world in general and in Argentine society in particular. Argentina was essentially a pluralistic nation, proud of its multicultural origins and respectful of the customs and culture of immigrants who had settled in its territory. Its federal system of government recognized and guaranteed the autonomy of its provinces, including the management of most of their resources.

63. The sovereignty issue remained a complex one, calling for imaginative solutions. Both sides had made mistakes at various times and of various magnitudes, but the time had come to begin a new phase, in which dialogue and understanding would prevail. No solution would be found as long as contacts were restricted to a yearly exchange of views in the Committee.

64. Argentina continued to consolidate its institutions; it had repeatedly acknowledged the mistakes of the past and shown its attachment to the peaceful settlement of disputes. He trusted that the United Kingdom would respond to the requests of the international community by agreeing to come to the negotiating table, which was where civilized nations settled their disagreements. He asked the islanders not to remain indifferent to the positive evolution of Argentine institutions or to the attitude of the Argentine people toward them, renewed his Government's commitment to the preservation of their way of life, and assured them that the settlement of the dispute would be to their advantage.

65. Finally, he expressed his gratitude to the sponsors of the draft resolution before the Committee, and hoped that it would receive broad support.

66. Mr. VALLE (Brazil), speaking on behalf of the member States of MERCOSUR, as well as Bolivia and Chile, read out the "Declaration on the Malvinas" adopted at the Tenth Meeting of the Presidents of MERCOSUR on 25 June 1996, the text of which was as follows:

> "The Presidents of the States members of the Southern Common Market (MERCOSUR) and the Presidents of the Republic of Bolivia and the Republic of Chile reaffirm their support for the legitimate rights of the Argentine Republic in the sovereignty dispute on the question of the Malvinas Islands and recall the desire of the countries of the hemisphere that an early

solution be found to the long-standing sovereignty dispute between the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland with respect to the said territory, in accordance with the resolutions of the United Nations and the Organization of American States."

67. Mr. RODRÍGUEZ PARRILLA (Cuba) emphasized the contribution of the Committee to the settlement of the sovereignty dispute concerning the Malvinas (Falkland) Islands. Cuba reaffirmed its support for the legitimate rights of the Argentine Republic in that dispute and for its sovereignty over the islands, and hoped for a swift resumption of negotiations to achieve a peaceful and just solution, with the cooperation of both parties, duly taking account of the interests of the islanders. His delegation had joined the sponsors of the draft resolution in the belief that the text would help to achieve that solution.

68. Mr. de ROJAS (Venezuela) said that his delegation had decided to sponsor draft resolution A/AC.109/L.1844 in order to confirm its unswerving commitment to the cause of decolonization and contribute to creating a suitable climate for the settlement of the dispute between two countries with which Venezuela maintained excellent relations.

69. His delegation reaffirmed its conviction that peaceful negotiation was the only way to put an end to the special situation of the Islands, taking note of the declaration of the member States of the Southern Common Market (MERCOSUR), together with Bolivia and Chile, regardingg the finding of an early solution in accordance with the resolutions of the United Nations and the Organization of American States.

70. His delegation hoped that the Committee would adopt the draft resolution, which differed little from the one adopted the previous year.

71. Mr. FARHADI (Afghanistan) said that the matter before the Committee reflected a rather complex colonial situation, which had given rise to a major dispute and even a serious armed conflict, at a very high cost not only to the islanders and the parties to the conflict, but also to the whole world. For that reason, although Afghanistan belonged to a different part of the world, it expressed its concern regarding the issue and believed that the United Kingdom and Argentina should hold negotiations in order to achieve a lasting peace. In any case, he was convinced that a settlement would eventually be reached and hoped that the draft resolution would be adopted by consensus.

72. The CHAIRMAN said that, if there were no objections, he would take it that the Committee wished to adopt draft resolution A/AC.109/L.1844 without a vote.

73. Draft resolution A/AC.109/L.1844 was adopted.

74. Mrs. KHAN-CUMMINGS (Trinidad and Tobago) said that, although she had joined the consensus on the draft resolution, she would have preferred the text to include a reference to the principle of self-determination in accordance with the Charter of the United Nations and General Assembly resolutions 1514 (XV) and 1541 (XV).

75. Bearing in mind the improvement in relations between Argentina and the United Kingdom, her Government urged the two States to resume negotiations to achieve a peaceful solution to the issue.

76. Mr. DURING (Sierra Leone) commended the efforts of Argentina and the United Kingdom to reach a peaceful settlement of the dispute. The wishes and interests of the islanders should be borne in mind, and it would have been preferable for the resolution to include an appropriate reference to the important issue of their right to self-determination.

The meeting rose at 5.35 p.m.